

**MERRIAM CITY COUNCIL AGENDA  
MERRIAM CITY HALL  
9001 W 62<sup>ND</sup> STREET  
Monday, June 22, 2020  
7:00 P.M.  
Virtual meeting via zoom.**

**I. CALL TO ORDER**

Mayor Ken Sissom called the meeting to order at 7:00 pm.

**II. ROLL CALL**

The following Councilmembers were present via Zoom meeting:

Scott Diebold  
Chris Evans Hands  
Bruce Kaldahl  
Brian Knaff  
David Neal  
Bob Pape  
Jason Silvers  
Whitney Yadrich

Staff present via Zoom meeting: Chris Engel, City Administrator; Ryan Denk, City Attorney; Meredith Hauck, Assistant City Administrator; Jim MacDonald, Public Works Director; Jenna Gant, Communication and Public Engagement Manager; Bryan Dyer, Community Development Director; Donna Oliver, Finance Director; Stephanie Thompson, HR Manager and Juli Pinnick, City Clerk.

**III. PUBLIC ITEMS**

In response to COVID-19, public comment that normally occurs during the City Council meeting has been temporarily suspended. Members of the public are still encouraged to share comments about matters that may or may not appear on the agenda. **Please note: Public Comments will only be taken *via email* to the City Clerk at [jpinnick@merriam.org](mailto:jpinnick@merriam.org) prior to 6:00pm on the date of the meeting**

The city clerk read the following public comments:

Kurt Jones, 9120 W 48th St., commented, the city residents would benefit greatly from constructing a dog park and a great place is where the old community center is now. I know the steering committee suggested an amphitheater but would the benefit outweigh the cost? For a dog park, it most certainly would.

Michelle French, 10113 W. 50<sup>th</sup> Ter., commented, I am a 6+ year resident of Merriam and would very much like to see the addition of a dog park along Merriam Dr. and the streamway trail. There are lots of green-space areas that, with little funding and maintenance, could provide a great benefit to residents. I've heard talks of an amphitheater - which seems like a waste and gross misuse of resources for the city and its residents. Whereas a dog park could provide a benefit not only by residents of Merriam but also to residents of neighboring communities, also drawing in potential spending at downtown businesses.

#### **IV. CONSENT AGENDA**

All items listed under the heading are considered to be routine by the City Council and may be enacted by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case that item will be removed from the Consent Agenda and considered separate

1. Consider approval of the minutes of the City Council meeting held June 8, 2020.

**COUNCILMEMBER PAPE MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEM 1. COUNCILMEMBER DIEBOLD SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

#### **V. MAYOR'S REPORT**

#### **VI. COUNCIL ITEMS**

##### **A. Finance and Administration**

1. Community Center Update

Assistant City Administrator Meredith Hauck provided a community center update. COVID19 has caused additional supply chain delays in the construction of the community center and the opening schedule has been changed. The opening schedule changes are posted on the city's website and patrons who have already purchased their memberships have been notified of the changes.

Opening day will be Monday, July 20; this will be a soft opening and then the full opening of the center will be July 25. Charter and regular members will be able to access the building the week of July 20. This will provide staff the opportunity to work through the new operation at a gradual pace rather than having the center full of patrons all at once. The tile for the indoor pool is still not on site and once it arrives

on site it will be 6-8 weeks before that portion of the center will be completed. A Labor Day opening is the target for the indoor pool. The entire facility should open by early September, and membership discounts are currently being offered due to the delay in opening.

Councilmember Pape asked about existing members from the Irene French Community Center since that facility has been closed and if they are being offered a refund or credit for membership at the new center.

City Administrator Chris Engel commented that those memberships are being rolled over into the new center membership for the time period when they were unable to access the Irene B. French Center. They will receive a credit toward their membership at the new center.

## 2. Citizen Feedback Tools Discussion

Assistant City Administrator Meredith Hauck provided a presentation regarding citizen engagement tools. As part of the budget goals, council asked staff to gathering information about options to use polling and survey tools to gather feedback from residents on large community issues. Staff is seeking guidance for the framework for this type of program.

She explained that polling is typically a quick yes or no answer to a basic question. No other information is typically gathered when polling and it is a very quick interaction with the person completing the question.

Surveys are typically a little more in-depth with the question and gathers information about the person answering the survey. Surveys are most likely used as a tool to determine a future action and would contain a series of questions. Respondents are typically asked to provide some personal information to help target or segment the responses. That personal information may contain the age, zip code or other types of information. Surveys are usually a part of a larger exploration of an issue and provide data points on that issue.

There are obstacles and opportunities when using polls and surveys. Opportunities allow the council to receive more feedback from residents and also allows the public the opportunity to provide feedback and input remotely. It also allows insight from voices that often are not heard, such as people who cannot attend public meetings.

Challenges with polls and surveys include asking the right questions in the right context and providing education to the public so they can make an informed decision and answer. Putting out the information can involve a lot of staff time. Making sure there is a diverse sample of respondents can also be a challenge, as sometimes we only hear from the loud voices and that does not always provide the random and diverse samples we are looking for. The city utilizes ETC to conduct city wide surveys every three years and this tool would be an additional component in gathering opinions and feedback from residents.

Ms. Hauck asked the council if they have some examples they would like to see these tools used for.

Councilmember Hands commented that deciding which tool to use, survey or polling would depend on the issue we are asking about. Surveying requires the education element which can be very time consuming for staff and could be problematic. Her main concern is she feels part of her responsibility is to guard the amount of staff time spent on something like this, and if staff is going to be asked to conduct these polls or surveys on every issue or decision that comes before the council, then she would not be on board with that.

Councilmember Pape commented that he feels there is a need for both surveying and polling and a couple of issues he would like to gather feedback on such as a single hauler for trash service and open burning. For the single hauler trash service, having some data from residents would help council decide if that is something that should be pursued or not depending on the level of interest from residents.

Ms. Hauck asked Councilmember Pape if a simple yes or no answer to the single hauler question would provide enough information to decide to move forward with that issue or would he want more in-depth information like who responded to that question.

Councilmember Pape commented that on this issue he feels he would need additional information as he feels people would need to know more information before making a decision such as potential costs/savings. This issue would potentially need a public education component. It would need some validity measures for the responses as well.

Councilmember Neal commented that he has been wanting something like this for a while. He understands that there are programs available that can provide this type of service and those

programs have parameters that can verify the validity of the responses within the software. He feels that for significant non-routine decisions that affect the community, we should be able to gather feedback from residents to assist with those decisions. He feels that there needs to be a more proactive approach to reaching out to residents other than public meetings.

He feels it's best to get feedback before those major decisions are made rather than after they are decided, as residents may not be happy with that decision and then they start giving feedback. He has looked at these types of programs and there a lot of tools available to handle this type of program. He conducted his own survey on the West Vernon Place Sidewalk issue and received about a 50% response rate, once people knew the survey was available.

Councilmember Diebold commented that his major concern is the security of a program like this and ensuring that respondents can be verified as a Merriam resident. He also is unsure about the threshold number of a survey and what signifies a true random sample that represents the majority of residents. Currently our processes allows the public to engage on major projects by holding public meetings which gives the opportunity to be heard. Because some folks do not like public meetings or are unable to attend he feels it is important to provide another mechanism for them to be heard and adding a program like this along with those meetings would be a good tool. He also realizes that educating the public on these issues takes a lot of effort on staff to provide that educational component. There is also a responsibility on the part of the resident to take the time to educate themselves on the issue.

Councilmember Yadrich commented that she feels the city does their due diligence to educate the public and provide information to the public through many media outlets. She also realizes that sometimes people do not understand the civics of how local government works and they need to educate themselves regarding that. She feels that any way we can reach out and get feedback from residents is good. She feels the feedback will be a great value in making decisions and engaging the public in the process.

Councilmember Knaff asked if the businesses would be included in the surveys and polls.

Ms. Hauck commented that as part of the ETC survey program she has included some funding to do a survey for Merriam businesses so that is being considered.

Councilmember Kaldahl questioned the cost for this type of program. These costs will include software licensing fees, staff time, council time deciding when to use this tool for which projects etc. and in the long run, is it really worth the time and money that will be spent.

Ms. Hauck commented that the subscription fees for these types of software programs range between \$5,000 and \$10,000 annually. She is concerned about the staff time that would be involved in this type of a program putting together those educational materials, and that would need to be considered as we move through this type of program.

Councilmember Silvers commented that he sees a value in surveying people and he sees it being used sporadically on major issues that have large costs associated with them. He asked on those major projects that would already have public meetings and presentations prepared if it would really add costs by adding a survey component and having to provide the educational piece.

Ms. Hauck commented that the costs are associated with the frequency of use of this type of program. If it is used infrequently on only major issues, the staff costs are not a major concern, but if it is being used on a monthly basis where staff is having to put together an education campaign on a particular topic then it would require a lot more staff time.

Councilmember Neal commented that he is sensitive to the concerns regarding staff time and he feels as long as it is used for things that are non-routine with significant impact to the community, the costs could be kept under control. There are some programs as low as \$4,000 a year with a first year free, so there are some low cost programs that could be tested to see what all is truly involved in this type of program.

Ms. Hauck commented that the city currently has the capability to do polling and polling is easy and inexpensive to do. Surveys are much more involved and would require a software to administer the survey appropriately.

City Administrator Chris Engel commented that he wants the council to understand that using this tool as a mechanism to make a decision on an issue that council is unwilling or unable to make even after conducting public meetings, receiving information from staff, and thorough discussion and debate has occurred might not be the best utilization of the program.

Mayor Sissom concluded the discussion by commenting that he would also want to allow businesses the opportunity to provide feedback on any issue that would affect them and not just allowing resident input. Hopefully staff has enough information to further investigate a program.

3. Merriam Use of Force Policy Presentation.

Police Chief Darren McLaughlin presented an overview of the Merriam Police Departments Use of Force Policy and frequently asked questions.

Does the Merriam Police Department use Choke Holds?

Our policy does not allow for the use of any technique that restricts the airway of a person. We do use a Carotid Restraint Hold. This technique does not restrict the airway.

Does the Merriam Police Department Policy require intervention by other officers in cases of excessive force?

Our policy does make it mandatory for officers to intervene if they see another officer using excessive force.

Does the Merriam Police Department Policy prevent officers from shooting at moving or from moving vehicles?

Our policy states, "An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others."

Does the Merriam Police Department have a Use of Force Continuum?

We train our officers to use force only when it is objectively reasonable and only to use the amount necessary to accomplish a legitimate law enforcement purpose. The officers are also trained in de-escalation techniques to avoid using force whenever possible and once the subject is under control, force is to stop immediately and aid is to be given to the suspect.

Does the Merriam Police Department make officers who have to use force write a report and are those use of force incidents reviewed?

Yes, our policy requires our officers to complete a separate use of force report every time they use force.

The use of force is reviewed by the officer's supervisor and then reviewed by a use of force panel made up of the division commanders and other supervisors. They then report their findings to the Chief of Police.

The panel reviews each use of force not only for compliance to policy, but for training review and for performance feedback

Does the Merriam Police Department require officers to give warnings before using force?

Our policy and training instructs officers to give warnings when feasible. Our policy and training recognize there may be incidents, even if rare, that an officer may not have the opportunity to issue a warning prior to being forced to defend themselves or citizens.

How does the Merriam Police Department monitor the job performance of their officer to ensure they are doing their jobs correctly?

Bi-annual job performance evaluations. Regular training on policy and use of force. Random review of in-car and body camera video of each officer by the supervisor. Investigation of all use of force incidents and officer complaints.

Does the Merriam Police Department regularly review policy and training?

Yes, we as a practice review policy several times a year. We use Lexipol to help formulate and review our policies. Lexipol is an outside agency that uses Federal and State law in conjunction with nationally recognized police best practices to formulate policy. Lexipol consistently reviews our policies and makes corrections to policy based on any changes in laws or best practices. We also have a training committee made up of officers and supervisors to evaluate our training and make recommendations to Administration on any additions or changes to our training curriculum.

Chief Mc Laughlin commented that the city has a Citizen's Academy that is held annually. Citizens over the age of 18 can enroll in the Academy. The Academy gives folks an opportunity to experience what a Merriam police officer experiences on a daily basis.

There was some discussion about the Carotid Hold technique. Chief McLaughlin commented that the Carotid Hold technique has only been used 4 times in the past 5 years.

Chief McLaughlin explained scenarios that helped clarify the objectionably reasonable use of force as it relates to a use of force continuum.

There was some discussion regarding the review panel and if anyone other than Merriam police officers were on the panel.

Chief McLaughlin explained that in addition to the review panel that is made up of police officers, the City Administrator also reviews any use of force incident which includes the written reports and videos. Chief McLaughlin stated that out of 1,200 arrests annually only about 52 of those arrests required some type of use of force. This is about 4%.

The council requested Chief McLaughlin include in his weekly report to the council any incidents that required use of force.

Mayor Sissom commented that as the City Administrator reviews these videos he is not looking at it from a police officer's view but rather as someone who is looking objectively to see if anything that occurred would be a liability for the city, if the officer acted appropriately and if additional training is needed for the officers. In addition, there are federal agencies that can be called in if a person feels they were treated unfairly or that their civil rights were violated. These agencies will come in and conduct their own investigation of the claim.

Chief McLaughlin outlined the process for a person to file a complaint against a Merriam Police Officer. They will fill out a form, which will be reviewed by the supervisor. They can call on the phone, tell another officer and some reports have been through Facebook. They are not required to fill out the form and all complaints no matter how received, are investigated. Most often the incident will have an associated report or video of their interaction with the officer.

While the majority of the complaints are unfounded, after they are investigated, those complaints are used for training purposes. Most of the complaints are resolved after the complainant visits with the officer's supervisor and it is explained to them why the officer acted in that manner.

In addition, any racial profiling complaint can be sent to the Attorney General's (AG) office if a person feels that racial profiling occurred. It will then be investigated by the AG's office. The Merriam Police Department has never had a substantiated complaint of racial profiling. The Merriam Police Department has in-car and body cameras which have been a positive asset to the police department, especially when a complaint is filed against an officer. They are a positive for the officer and the public.

Chief McLaughlin stated that most interactions the public has with the police department are positive. The Department's philosophy of community oriented policing has been very good for our community. Hosting community events like coffee with a cop, being at community events, and hosting the Citizens Academy allows the community to interact with officers in a positive way. During recent events across the country, the Merriam Police Department has received many supportive comments from the public.

There was some discussion regarding the mental health co-responder that assists the police department with cases that involve a mental health issues. They respond with the officer when there is a person in crisis. Many times an officer receives a call that is not a criminal issue but someone who is having a mental health crisis. They follow up with those folks with mental health issues to get them the help they need which could include following their medication guidelines, going to appointments etc. Having that follow-up will hopefully prevent a repeat call to the police.

Several councilmembers expressed their appreciation for the Merriam Police Department and thanked Chief McLaughlin for providing the information and having the conversation about this issue. They also indicated they would like to have other discussions about probable cause and preventing racial bias. They expressed full support of the police department.

Mayor Sissom concluded by stating that we are very fortunate to live in the City of Merriam and Johnson County. There is a tremendous amount of support from all the police agencies in the county. As the Police Academy Director he hosts the area police chief's association monthly meetings. There have been very lengthy discussions about recent events that have occurred across our country. All of the police agencies in the county work as a team and cooperate with each other very well.

4. Monthly Finance Report (May) included in packet.

City Administrator Chris Engel commented that the Finance Report reflects sales tax collections through March. Those collections reflect a 1.9% above 2019 collections.

**B. Community Development/Public Works/CIP**

1. Community Development Update.

Community Development Director Bryan Dyer provided the following updates:

This Wednesday, the Comprehensive Plan Committee will host a virtual workshop. Anyone interested in participating in the workshop can go to [www.merriam2040.org](http://www.merriam2040.org) to access the virtual meeting.

Reed Dodge Chrysler Jeep Ram dealership is moving along well.

Switzer Senior Villas is also moving along well with their construction.

Staff continues to work with DS Bus Lines on their project along Merriam Drive and 55<sup>th</sup> St.; they are still going through the building permit process and should be obtaining the permit soon.

**VIII. STAFF ITEMS**

City Administrator Chris Engel reminded the council of an email sent regarding the virtual CIP Tour that is available on YouTube. There was a link to the video in the email it was created by the communications team. He thanked the communications team and Police Officer Chris Meyers who provided the drone footage for the video. The video will soon be available to the public.

**IX. NEW BUSINESS**

**X. EXECUTIVE SESSION**

**XI. ADJOURNMENT**

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER PAPE MOVED TO ADJOURN AT 9:02 PM. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

APPROVED: July 13, 2020

Respectfully submitted,  
*Juliana Pinnick*  
Juliana Pinnick  
City Clerk